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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,625	11/18/2003	Yoshimichi Nishio	041465-5213	3267

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EXAMINER	
HALEY, JOSEPH R	

ART UNIT	PAPER NUMBER
2627	

DATE MAILED: 07/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/714,625	NISHIO, YOSHIMICHI	
	Examiner	Art Unit	
	Joseph Haley	2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 November 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *18 November 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Specification

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Objections

Claims 2are objected to because of the following informalities: "seed" should be --speed--. Appropriate correction is required.

Also In claim 2 "devices" should be --device--.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 4, 7 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 4, 7, 8 recites a limitation of "an operation specified by an operation command", however it is unclear what the operation does.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 9 and 10 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 9 and 10 are drawn to a "program" *per se* as recited in the preamble and as such is non-statutory subject matter. See MPEP § 2106.IV.B.1.a. Data structures not claimed as embodied in computer readable media are descriptive material *per se* and are not statutory because they are not capable of causing functional change in the computer. See, e.g., *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure *per se* held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention, which permit the data structure's functionality to be realized. In contrast, a claimed computer readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory. Similarly, computer programs claimed as computer listings *per se*, i.e., the descriptions or expressions of the programs are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer, which permit the computer program's functionality to be realized.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 4-5 and 7-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Arai et al. (US 2006/0066970).

In regard to claims 1, 7 Arai et al. teaches a reading device to read out information recorded on a recording medium (element 9); a first recording device in which the information that is read out by the reading device is written (element 54); an output device to output the information written in the first recording device (element 52); a second recording device in which the information that is read out by the reading device is recorded (element 10); and a controller (element 8) to control the reading, first recording, output, and second recording devices such that an operation specified by an operation command issued from an operation device (element 2) and directed to all the information recorded on the recording medium is performed, during an operation for recording the information into the second recording device; and the recording operation is continued (see paragraph 70 lines 3-9).

In regard to claim 2 and 5, Arai et al. teaches the reading devices is configured to read out the information from the recording medium at a speed faster than an output seed at which the output device outputs the information written in the first recording device (see fig. 3 Arai et al. teaches a buffer).

In regard to claim 4, 8 Arai et al. teaches a reading device to read out information recorded on a recording medium; a first recording device in which the information that is read out by the reading device is written; an output device to output the information written in the first recording device; a second recording device in which the information that is read out by the reading device is recorded; and a controller to control the reading, first recording, output, and second recording devices such that an operation for recording information into the second recording device is started at a time when an amount of the information accumulated in the first recording device reaches a given amount (see abst); an operation specified by an operation command issued from an operation device and directed to all the information recorded on the recording medium is performed, during the operation for recording the information into the second recording device; and the recording operation is continued even after the operation command was issued (see paragraph 70 lines 3-9).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arai et al. in view of Suito et al. (US 6925340).

In regard to claims 3 and 6, Arai et al. teaches all the elements of these claims except wherein the information recorded on the recording medium is composed of compressed data and the reading device is configured to read out the compressed data recorded on the recording medium at a speed equal to or slower than a speed at which the output device outputs the compressed data written in the first recording device.

Suito et al. teaches wherein the information recorded on the recording medium is composed of compressed data and the reading device is configured to read out the compressed data recorded on the recording medium at a speed equal to or slower than a speed at which the output device outputs the compressed data written in the first recording device (column 20 lines 43-49 Suito et al. teaches reading 60 ms of samples and turning them into 30 ms of samples through compression).

The two are analogous art because they both deal with the same field of invention of recording onto a medium.

At the time of invention it would have been obvious to one of ordinary skill in the art to provide the apparatus of Arai et al. with the compression of Suito et al. The rationale is as follows: At the time of invention it would have been obvious to provide the apparatus of Arai et al. with the compression of Suito et al. because the use of compressed data can greatly increase storage capacity.

Claims 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arai et al.

In regard to claims 9-12, Arai et al. teaches all the elements of claims 9-12 (see claims 1, 4, 7 and 8 rejections above) except a program on a computer readable recording medium.

The examiner takes Official Notice that the use of a computer readable recording medium is well known and would have been obvious to use. The rationale is as follows: At the time of invention it would have been obvious to provide the apparatus of Arai et al. with a computer readable recording medium because it would make transportable and copyable.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Haley whose telephone number is 571-272-0574. The examiner can normally be reached on M-F 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on 571-272-7589. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

jrh

THANG V. TRAN
PRIMARY EXAMINER